

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

OAKLAND UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2015080398

ORDER GRANTING REQUEST FOR
CONTINUANCE AND SETTING
PREHEARING CONFERENCE AND
DUE PROCESS HEARING

On September 4, 2015, Oakland Unified School District filed a request to continue the dates in this matter on the basis that both counsel of record will be unavailable on September 23, 2015, because they will be observing Yom Kippur. The due process hearing is currently scheduled for September 23, 2015. No prior continuances have been granted in this matter.

On September 8, 2015, Student filed an opposition to Oakland's motion. Student served his opposition on the school district, but failed to serve his opposition on Oakland's counsel of record. On September 10, 2015, Oakland filed a motion to strike Student's opposition due to lack of service. Oakland's motion to strike is denied. However, Student is reminded that all motions and documents need to be served on Oakland's counsel of record.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. This matter will be set as follows:

Prehearing Conference: October 9, 2015, at 10:00 AM

Due Process Hearing: October 20, 2015, at 9:30 AM; October 21 and 22, 2015, at 9:00 AM; and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: September 14, 2015

/s/

B. ANDREA MILES
Administrative Law Judge
Office of Administrative Hearings